

# The International Human Rights Standard and Pakistan's Obligations regarding Wrongful Conviction: A Comparative Doctrinal Analysis with the United Kingdom\*

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## Abstract

Failures within the criminal justice system can result in wrongful convictions, thereby violating human rights. Additionally, wrongful convictions can erode trust in the system as a whole. This article examines the disparate human rights standards around the world regarding wrongful convictions, focusing on Pakistan and the expectations for Pakistan's position in the global community on the issue. This article also examines the comparative and doctrinal position of the UK, aiming to identify the strengths and weaknesses of Pakistan's position. This takes into account the central instruments of human rights—the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights—as well as the domestic case law and statutes of both the UK and Pakistan. In Pakistan, all the agreements on fair trial and remedies under the ICCPR guarantee fair trial rights. Still, there have also been domestic legislative omissions, such as the lack of a law to compensate the wrongfully imprisoned. The UK, on the other hand, has a more systematic approach, particularly through the Criminal Justice Act 1988. In light of this, Pakistan needs a domestic law that addresses the human rights standards at its disposal to deliver justice to the wrongfully convicted.

**Keywords:** Wrongful Conviction; Criminal Justice; Pakistan; United Kingdom; Compensation

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## A. INTRODUCTION

The ramifications of each erroneous conviction reverberate through every facet of society. Convictions that stem from incomplete or inaccurate data not only distort the lives of the wrongfully accused but also distort the lives of the crime victims, the relatives of both parties, and continue to inflict harm for an indefinite period. Furthermore, the erroneous conviction of an individual egregiously undercuts the belief that our system of justice is equitable, and raises the likelihood of 'wrongful liberty' in which those who are truly culpable are free to continue their criminal predation. ([Justice & Justice, 2023](#))

One of the cornerstones of all contemporary judicial systems is the presumption of innocence. According to the human rights documents, it is also a significant right of the accused. The basic idea is that a person is presumed innocent unless and unless a court of competent jurisdiction finds them guilty. ([Khalid, 2021](#)) The Aristotelian idea of corrective justice also suggests a moral obligation to make amends in cases where the wrongdoing of state actors led to a wrongful conviction. In essence, Aristotle contends that anyone harmed by wrongdoing ought to have the freedom to seek redress through either monetary compensation or criminal punishment. Epstein argued that legal liability should follow moral responsibility for the harm inflicted. ([Sheehy, 1999](#))

The phrase wrongful conviction may refer to situations in which people are captured and detained but later released after no charges are brought. Charged, but whose charges are dropped before trial, and attempted and successful. However, despite being charged, their conviction was overturned upon request ([Qayum et al., 2016](#)). When a government agency concludes that the person initially convicted did not actually commit the crime, it is known as wrongful prosecution. Exoneration is the process by which a government agency acknowledges a convicted person's innocence through a pardon or a court decision. When someone who is truly innocent is criminally convicted, it is known as wrongful incarceration. Wrongful convictions threaten the credibility of the criminal justice system's two pillars. A falsely convicted person gets punished for a crime they did not commit, while the real criminal escapes punishment. ([Chadha, 2021](#))

Additionally, when erroneous convictions are discovered, public trust in the system deteriorates. The basic legal principle that an accused person is legally assumed innocent until proven guilty following a trial also forms the foundation of the criminal justice system. Since they demonstrate that the presumption of innocence may be violated and that the criminal justice system does not simply

deal with the guilty, wrongful convictions undermine both this fundamental legal value and this societal expectation. ([Chadha, 2021](#))

According to international human rights law, wrongful conviction is a denial of justice and undermines one's access to an effective remedy. It goes to the heart of the integrity of the criminal justice system and the public's trust in the legality of the social order. The covenant on civil and political rights, to which Pakistan is a party, outlines these rights and remedies under Article 14(6). Despite this and international expectations, Pakistan has not yet enacted laws to enable financial compensation for the innocent. Statutes enabling a compensation scheme in line with the civil and criminal justice systems have been enacted in the United Kingdom; therefore, Pakistan can automate reparation within the criminal justice system. ([Abdul et al., 2022](#))

This paper investigates Pakistan's obligations as a member of the international community, particularly as a signatory to international human rights documents, and its compliance with those documents, as encapsulated in Pakistan's domestic legal systems. By providing a comparative infrastructural analysis of Pakistan's and the UK's legal systems, the paper aims to underscore the gaps in those systems and to suggest legal reforms that would close them.

## B. METHODS

This paper uses a doctrinal legal research method to examine Pakistan's compensation system for exonerated individuals, with a view to complying with international human rights standards, including a comparative analysis with the United Kingdom. ([Banakar & Travers, 2014](#)). Data for this study were analyzed using comparative and critical analysis methods. Data collection is essential ([Ramalinggam et al., 2019](#)). This is also beneficial for the study and review phases. ([Rahman, Zahir, & Althabawi, 2023](#))

The analysis will examine established methods and identify areas within the Pakistani system that could be improved using best practice frameworks. Therefore, the research results are likely to help build a more just and effective compensatory mechanism in Pakistan.

## C. RESULTS AND DISCUSSION

### 1. Conceptual Understanding of Compensation and Wrongful Conviction

Although compensating victims of wrongful convictions may be perceived solely as an economic remedy, it should also be viewed as symbolic recognition

that an individual's human rights, such as liberty, security, and the right to due process of law, were violated. From a compensatory justice perspective, it constitutes an unethical failure on the state's part to fulfill its duty to its citizens. ([Qayum et al., 2016](#))

Even the most effective criminal justice systems are challenged by wrongful convictions. A conviction is deemed wrongful when it results from the conviction of an innocent individual. This may take place due to systemic issues such as false confessions, mistaken eyewitness identifications, prosecutorial misconduct, or defense underfunding and misrepresentation. ([Abdul et al., 2022](#)) According to Stratton, wrongful convictions can arise when dishonesty or criminal activity undermines the state's duty to uphold due process and protect rights. This highlights the complexity of wrongful convictions, which can stem from both procedural errors and systemic failures. ([Stratton, 2015](#))

One crucial and unclear legal problem in Pakistan is the compensation remedy for unjust convictions. Unfortunately, for the sake of recompense, a tactful approach to this matter is necessary, since Pakistan's criminal justice system lacks a clear and sufficient mechanism; the norms outlined in the aforementioned legal framework papers do not function as intended. The protection of the nation's citizens' fundamental and standard legal rights, as well as their particular procedural rights to acquit the guilty, is a key component of the 1973 Constitution. ([Tauqeer Hussain, 2018](#))

Article 4 of the 1973 Constitution gives notice of abhorrent acts that result in injustice. It declares that any action made that could endanger someone's life, liberty, body, reputation, or property must be done so in compliance with the law. A person loses his life, liberty, and reputation when falsely convicted and imprisoned for an extended period. His socioeconomic life is turned upside down, and he becomes even more upset when he discovers that the flaws in the legal system are to blame. However, in situations like those involving Rani Bibi, Muhammad Malik Taj, Mazhar Farooq, and Muhammad Iqbal, when it appears that fundamental rights have been violated, these assurances seem to be empty platitudes. To remedy such injustices, a compensating system and due process of law are desperately needed. After being wrongfully convicted, people suffer greatly to get housing, money, health care, insurance, transportation, and a stigma associated with their criminal record that rarely goes away, even in cases of innocence. ([Aamer et al., 2023](#))

## **2. International Human Rights Framework Concerning Wrongful Conviction**

Compensation for legally recognized wrongful convictions forms part of legally recognized human rights. The right to compensation for wrongful

convictions becomes part. As stated in Article 14(6) of the International Covenant on Civil and Political Rights, 'when a conviction is reversed or pardoned on the grounds of new or newly discovered facts, the person shall be compensated according to law, (unless it is proved that the non-disclosure of such facts is attributable to the individual). Article 9(5) of the ICCPR also provides that a person is entitled to compensation for unlawful arrest or detention. Article 8 of the Universal Declaration of Human Rights states that 'everyone shall have the right to an effective remedy for violations of fundamental rights. ([Abdul et al., 2022](#))

The phrase "according to law" has a broader meaning than merely stating that legislation should not negate or frustrate the clause's intent. Article 14(6)'s compensation clause only applies when there "has been a miscarriage of justice." That right falls away when it is "proved that the non-disclosure of the unknown fact in time is wholly or partly attributable" to the condemned. The compensation defaults addressed by Article 14(6), along with the provision's historical context and literal interpretation, do not require the applicant to show that a state agent was in any way complicit in his conviction. ([Jamil Ddamulira Mujuzi, 2023](#))

The Universal Declaration of Human Rights (1948) (UDHR) marks the beginning of international human rights law regarding wrongful convictions. The UDHR sets the groundwork for the principles of justice and fairness, which are my focus for the ICCPR and other international treaties. The most relevant rights in the context of wrongful conviction, highlighted in Articles 8, 9, 10, and 11 of the UDHR, include the right to an effective legal remedy, the right against arbitrary arrest and detention, and the right to a fair and public trial by an impartial tribunal. ([Universal Declaration of Human Rights, 2021](#))

Nonetheless, scholarly observers recognize that state parties' adherence remains inconsistent. Although some developed countries, including the United Kingdom, have put in place legal instruments to meet their treaty obligations, several developing countries, Pakistan included, lack actionable frameworks. This divergence suggests insufficient administrative capacity and a lack of political will to recognize wrongful conviction as a rights issue deserving attention. ([Jain, 2021](#))

### 3. Legal and Judicial Approach of the United Kingdom

The concept of rewarding people who were wrongfully convicted was first proposed by Professor Edwin Borchard more than a century ago; thus, it is by no means new. The first state to pass a no-fault wrongful conviction compensation

law was Wisconsin in 1913. There is a lengthy and almost universal agreement that erroneous convictions are among the worst injustices that may occur, second only to the execution of an innocent person. Without a doubt, the state has an ethical duty to provide these people with the essential medicines. ([Gutman, 2016](#))

Since April 2006, the British government has had two remuneration policies as compensatory schemes to address wrongful convictions in England and Wales. The first was a discretionary scheme, and the second was a statutory scheme. However, the discretionary scheme was later abolished, and the government delegated the statutory scheme's powers to the Justice Secretary. The Justice Secretary has discretion regarding compensation for exonerees whose convictions have been reversed or pardoned due to new facts proving their innocence beyond a reasonable doubt and a miscarriage of justice. In 2011, the Supreme Court also ruled that the meaning of "miscarriage of justice" should not be restricted to cases in which applicants conclusively demonstrate their innocence solely through newly discovered facts. ([Lipscombe & Beard, 2015](#))

Individuals who have been wrongfully convicted have a right to compensation under the International Covenant on Civil and Political Rights (ICCPR) of 1966. Access to such compensation has gradually decreased in England and Wales due to recent changes in law and case law. Section 133 of the Criminal Justice Act 1988 is the only remaining statutory provision that is without charge and ex gratia and terminated in 2006. To improve consistency in judgment delivery and ensure that compensatory mechanisms or compensation are only awarded when the State secretary is satisfied with the aggrieved person's innocence, precedents, case law, and subsequent legal amendments have qualified for reward or compensation. Consequently, there has been a significant decrease in the number of compensation claims approved for those who have been wrongfully convicted in the United Kingdom. ([Hoyle & Tilt, 2020](#))

An impartial assessor determines the appropriate compensation for a qualified applicant under Section 133, as designated by the State Secretary. The assessor is allowed to deduct the exonerated criminal history, reduced living costs, and any actions involved in punishments. If the claimant has served at least 10 years in prison, the maximum compensation is £1 million; in all other cases, it is £500,000. ([Lipscombe & Beard, 2015](#))

General officials in the UK and Welsh territories use non-court procedures to determine the recipients of legal compensation and the settlement amounts when such cases occur. If the Secretary of State deems an applicant eligible, then an independent assessor determines their compensation amount. The court system plays no role in establishing this benefit determination process. Under

criminal court procedures, there exists an acknowledgment that unexplained convictions result in the incarceration of harmless individuals. The system features different processes people can use to appeal their decisions. The Parole Board operates within this system, which makes it impossible to dismiss erroneous convictions, the successful appeals against convictions each year in England and Wales, or the fact that certain prisoners claiming innocence are actually innocent. ([Naughton & Tan, 2010](#))

The International Covenant on Civil and Political Rights established, through its 1966 provisions, that nations must make reparations for unjust amnesty. The UK signed the ICCPR on September 16, 1968, and formally approved it on May 20, 1976. The creation of necessary legislation took ten years after the ICCPR's enactment. The Home Secretary declared in 1985 that he would make reparations whenever international duties required it. He promised to maintain payment for any person arrested due to a wrongful charge or conviction whenever a public body or police members demonstrated serious failings. ([Quirk, 2016](#))

According to Section 133A clause (5), the existing compensation is £500,000 for those who have spent or served less than 10 years in prison, and £1,000,000 for those who have served more than 10 years in prison. When the judgment is reversed, the accused is exonerated from the charge with only £46 and a travel warrant. None of the resettlement services offered to criminals with valid sentences, including probation or day release from jail, are given to exonerated individuals. Housing, benefits, medical, and psychological requirements are not automatically met. The Royal Courts of Justice Advice Bureau is the sole state agency that offers assistance. ([Jasin'ski, 2023](#))

#### **4. The legal position of Pakistan regarding the compensatory mechanism**

There is no statute in Pakistan regarding compensation for wrongful convictions, unlike in the United Kingdom. Noting Pakistan's involvement with the ICCPR since 2010, Article 14(6) remains unenacted in domestic law. Rights enshrined in the Constitution of Pakistan (1973), namely Articles 4, 9, 10, and 14, guarantee due process, personal liberty, and dignity; however, these provisions are merely declaratory in nature and provide no specific remedy for wrongful convictions. One crucial and unclear legal problem in Pakistan is the compensation remedy for unjust convictions. Unluckily, for recompense, a tactful approach to this matter. Since Pakistan's criminal justice system lacks a straightforward, sufficient, and codified mechanism, the norms outlined in the aforementioned legal framework papers do not function as intended. The

protection of the nation's citizens' fundamental and standard legal rights, as well as their particular procedural rights to acquit the guilty, is a key component of the 1973 Constitution. ([Qayum et al., 2016](#))

Unlike other countries, Pakistan does not provide a specific and adequate legal right to compensation for someone who has been wrongfully accused and is later found not guilty following a protracted trial. However, three legal papers are crucial to compensation: the Pakistani Constitution of 1973, Section 250 of the Criminal Procedure Code, and the submission of a tortious claim against responsible parties under tort law. These works are related because they all recognize the need to compensate people wronged by the legal system. ([Aamer et al., 2023](#))

Section 250 Criminal Procedure Code gives the Magistrates hearing the case the authority to award compensation for baseless accusations. A police officer or magistrate may receive information or a complaint, which prompts the opening of a case. It could be directed against one or more people, accusing them of any crime that the magistrate has the authority to try. After considering the evidence, the magistrate either clears the accused or discharges them. When the accused is released from custody or is found not guilty, the magistrates believe that the complaint was unfounded. If the complainant is present, the accused requests that he provide a reason why he should not be compensated. ([Abdul et al., 2022](#))

According to the Express Tribune article, Mazhar Hussain was declared innocent by the highest court after a higher court rejected his appeal. According to the story, he did not live to see the day he would be found not guilty, and even the Supreme Court was ignorant that the appellant had died in custody. The facts of the case are that the aforementioned accused was convicted under section 302 of the Pakistan Penal Code by the Session Court, and Hussain filed an appeal with the Supreme Court after the Lahore High Court upheld the Session Court's guilty verdict. Six years later, on October 6, the case was once again heard by the three-member court led by Justice Asif Saeed Khan Khosa. However, it did not seem like anyone was looking into the prisoner's request. The report stated that the bench enlisted the aid of A.G. (Advocate General) Islamabad Abdul Rauf Mian, who was not aware that the prisoner had already died. In its ruling, the Supreme Court noted that the prosecution's case contained several conspicuous gaps. According to the study, it also casts doubt on the veracity of the medical findings and the reported presence of witnesses at the crime site. The Supreme Court overturned the verdict, exonerated Hussain, and ordered his immediate release, finding that the prosecution failed to establish its case against him

beyond a reasonable doubt. However, unfortunately, when the release order was sent to the jail, the exonerated person died due to cardiac arrest. ([Ali, 2016](#))

The Law and Justice Commission of Pakistan proposed a compensation framework based on those in the common law jurisdictions in 2012; such a framework has yet to be created. According to Madiyal and Jain, this remains a fine example of the dismissal of justice reform in the absence of public debate, as articulated. Pakistan violates the ICCPR under both its provisions and its spirit, especially article 14(6), which requires the country to provide compensation in tangible form, not only in legal terms. ([Jain, 2021](#))

## **5. Doctrinal Comparative Analysis with the United Kingdom**

The United Kingdom's compensatory mechanism is more comprehensive than Pakistan's, offering substantial, merit-based compensation to exonerated persons. According to section 133 of the Criminal Justice Act 1988, if someone is declared innocent by the court when the basis of a newly discovered fact arises, then the exonerated person claims compensation from the Secretary of State. This provision completely implements the obligation of ICCPR Article 14, clause 6. Moreover, the CCRC Criminal Cases Review Committee plays a significant role in investigating criminal miscarriage cases to redress the grievances of exonerated persons. On the contrary, Pakistan lacks codified statutes and a mechanism to compensate the exonerated persons, even though it is a signatory to ICCPR.

It is evident in the UK under section 133 the procedural and substantive law the responsibility of the administration to provide the to implement the fundamental rights of citizens which are also narrated in ICCPR for wrongfully convicted persons which is benchmark and milestone for criminal justice system under international obligations to bestow, but on the contrary the lack of implantation of article 14(6) of ICCPR is the violation of the responsibility to deliver beneficial and effective remedies to exonerated persons.

## **6. Comparative Analysis of Wrongful Conviction Frameworks in the United Kingdom and Pakistan**

Publication of a research paper plays a key role in enabling individuals to express their thoughts, empowering the criminal justice system and democratic reform, and safeguarding the right to publish, which is crucial for personal growth and self-governance, as well as for the advancement and

viability of any democracy. ([Na'aim, Mohd Zahir, Rajamanickam, Dahlan, & Hashim, 2025](#))

The comparison shows how differently the United Kingdom and Pakistan handle wrongful convictions. While both countries recognize the right to a fair trial, the gaps in execution are evident. The United Kingdom's statutory system demonstrates a positive approach to harmonizing international frameworks, while Pakistan's reliance on the constitution remains inadequate. Pakistan's approach to the wrongful conviction issue also reflects a culture of prioritizing the 'getting of the right answer' procedurally, and this influences the possibilities of exoneration and compensation. The situation is also made worse by the absence of any analogue in the United Kingdom —an apparent lack of a 'criminal case review commission.' The absence of statutory relief and compensation, and of a review commission, means Pakistan is a long way from meeting the expectations of the ICCPR and other international human rights instruments.

#### **D. CONCLUSION**

In Pakistan, wrongful convictions occur, demonstrating the need for an advanced human rights approach within the country's criminal justice system. Emphasizing the gap between Pakistan's domestic implementation and international obligations is the lack of a responsive compensatory system, despite constitutional guarantees. With statutory provisions and supportive state structures, the United Kingdom offers a viable comparative approach. Something similar should be implemented in Pakistan, with the legislation for a compensatory system coupled with statutory oversight provisions for independence. There is also a need to increase public education, improve judicial training, and revise the rules of procedure to safeguard against future miscarriages of justice. Closing the gap between Pakistan's domestic legislation and international human rights legislation will most certainly make the wrongfully convicted system in Pakistan's criminal justice system more credible and fair.

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